

Calendar No. 588

78TH CONGRESS }
1st Session }

SENATE

} REPORT
No. 588

MRS. RENZIE GRAHAM

DECEMBER 9 (legislative day, DECEMBER 7), 1943.—Ordered to be printed

Mr. ROBERTSON, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 550]

The Committee on Claims, to whom was referred the bill (H. R. 550) for the relief of Mrs. Renzie Graham, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The facts will be found fully set forth in House Report No. 431, Seventy-eighth Congress, first session, which is appended hereto and made a part of this report and your committee concur in the recommendations of the House.

[H. Rept. No. 431, 78th Cong., 1st sess.]

The Committee on Claims, to whom was referred the bill (H. R. 550) for the relief of Mrs. Renzie Graham, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, line 5, after the word "to" strike out the language "the administrator of the estate of Renzie Graham, of Athens, Ohio, for the use and benefit of the widow and children of said Renzie Graham" and insert in lieu thereof the language "Mrs. Renzie Graham, of Athens, Ohio, widow of Renzie Graham, deceased".

Page 1, line 8, strike out the figures "\$6,000" and insert in lieu thereof the figures "\$1,900".

Amend title so as to read: "A bill for the relief of Mrs. Renzie Graham."

The purpose of the proposed legislation is to pay to Mrs. Renzie Graham, of Athens, Ohio, widow of Renzie Graham, deceased, the sum of \$1,900, in full settlement of all claims against the United States resulting from injuries sustained by Renzie Graham during a period of hospitalization in the veterans' facility, Dayton, Ohio, when he was burned by X-ray treatments given by the staff thereof; and for medical, hospital, traveling, and other expenses incurred by him and his widow by reason of the illness, death, and burial of the said Renzie Graham.

STATEMENT OF FACTS

The late Renzie Graham died the 4th day of June 1942 as the result of a cancer. He left a widow and two children. He saw much hard, active service in the First World War. He was given a disability discharge for which disability he was given medical and hospital treatment continuously from the time of his discharge to the time of his death.

In 1929 while being given X-ray treatment at the veterans' hospital at Dayton, Ohio, his throat was very severely burned. The veteran always maintained that these burns were the result of carelessness for which he was in no way responsible. The immediate result of this burning was to aggravate the throat abscess with which he had been troubled and which aggravation developed into a cancer. The Veterans' Bureau continued to treat him intermittently for some time. He gradually became worse and consulted several of the leading specialists of the Nation. This exhausted his financial resources and he was ordered to go to Philadelphia, where he received treatment from Dr. Chevelier Jackson, one of the leading cancer specialists in America.

A question arose with reference to his reimbursement by the Veterans' Administration for the money which he was compelled to spend in securing the medical treatment above referred to. There was never any question with reference to the merits of his claim or the necessity for the treatment. The only question was whether his case was one of such emergency as would require immediate treatment. The evidence before the committee, especially the evidence given by Dr. Beatty, a highly qualified specialist from Columbus, Ohio, was to the effect that this was a case of great emergency. The evidence showed that Dr. Beatty had advised Mr. Graham that his condition was so desperate that he must proceed at once to return to Philadelphia where the principal operation had been performed on him after the serious burns had been received. The fact that the veteran died in spite of the treatment which he received is proof that his case was one of great emergency.

The Veterans' Administration, in its report to this committee with reference to this claim, after reviewing all the facts, used the following language:

"If further consideration is to be given to the measure it is suggested that in view of the veteran's death, appropriate changes be made to award the proposed benefit to the veteran's estate or to his widow."

The evidence shows that the Veterans' Administration had shown a cordial disposition toward this veteran because it was recognized that he was suffering from a very serious disability which owed its origin to his military service.

The evidence showed that the veteran was a man of high character. Although he had suffered continuously with a serious ailment from the date of his discharge, he had managed at different times to secure employment which was fairly remunerative and that he spent all his spare money for medical and hospital treatment. Sworn testimony shows that in addition to the money above referred to, which he spent, he spent the sum of \$1,834.03, which he had every reason to believe would be refunded to him by the Veterans' Administration. The evidence further shows that he and his wife on his behalf had incurred other expenses which should have rightfully been paid by the Veterans' Administration but an itemized statement of said additional payments has not been included.

The sum of \$1,900, the amount proposed to be paid Graham's widow under the bill as amended, will scarcely reimburse her for the medical and hospital expenses incurred and paid by her and her husband during the last days of his illness, and your committee feel that she is entitled to such payment.

Your committee, therefore, recommend favorable consideration of the proposed legislation.

Appended hereto is the report of the Veterans' Administration, together with other pertinent evidence, all of which is made a part of this report.

VETERANS' ADMINISTRATION,
Washington, July 22, 1942.

Hon. DAN R. McGEHEE,
*Chairman, Committee on Claims,
House of Representatives, Washington, D. C.*

MY DEAR MR. McGEHEE: Further reference is made to your request of March 13, 1942, for a report on H. R. 6675, Seventy-seventh Congress, a bill for the relief of Renzie Graham, which provides:

"That the Secretary of Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Renzie Graham, of Athens, Ohio, the sum of \$6,000, in full settlement of all claims against the United States Government for injuries sustained during a period of hospitalization in the veterans' facility, Dayton, Ohio, due to negligence of the staff of said hospital when he alleges that he was burned by X-ray: *Provided*, That no part of the amount appropriated in this act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000."

The records of the Veterans' Administration indicate that Renzie Graham enlisted in the military service February 8, 1918, and was honorably discharged May 23, 1919, having served as a corporal, Company B, One Hundred and Ninth Infantry, Twenty-eighth Division. During service he was treated for gastritis, influenza, scarlet fever, bronchial pneumonia, and diphtheria. He was first examined by the Bureau of War Risk Insurance on July 23, 1919, at which time a diagnosis of neurasthenia was made.

Two years later (July 11, 1921) he was found by a Government physician to be suffering from a tumor of the throat, which was deemed to be connected with his military service, and on account of which an operation was recommended. Such an operation was performed July 19, 1921, by Dr. George C. Schaeffer of the United States Public Health Service, acting on behalf of the Bureau of War Risk Insurance, at the Hawkes Hospital of Mount Carmel, Columbus, Ohio. A physical examination of December 13, 1921, disclosed a recurrence of the tumor, which was removed January 9, 1922, by Dr. Edward King at the Cincinnati General Hospital, Cincinnati, Ohio, acting on behalf of the United States Veterans' Bureau.

A course of radium treatments at monthly intervals was undertaken, pursuant to Dr. King's recommendation. After four such treatments it was reported on April 5, 1922, that the growth was being held in check, to a large extent, but that the tumor was continuing to grow slowly. On April 19, 1922, the veteran was again examined by Dr. Schaeffer, who was of the opinion that further operation was questionable "because recurrence rather indicates tendency to malignancy." Radium treatments were thereafter continued, at intervals, through August 1923.

From September 1923, to February 1929, the veteran, as a beneficiary of the United States Veterans' Bureau, underwent a course of X-ray and radium treatments at the National Home for Disabled Volunteer Soldiers, Dayton, Ohio. On February 18, 1929, the condition not having improved, and in order that everything possible might be done for the veteran's relief, authority was granted for his hospitalization in the Graduate Hospital of Temple University, Philadelphia, Pa., for care by Dr. Chevalier Jackson, a private medical practitioner of outstanding ability.

The veteran entered the Graduate Hospital March 19, 1929, and was discharged May 22, 1929. After a course of radiation the growth was removed by Dr. Jackson on April 24, 1929, but no attempt was made at that time to deal radically with

the base. On May 15, following further treatment by radiation, the tumor was removed.

Upon the veteran's return to his home radium treatments were continued at the Dayton Soldiers Home in consonance with the recommendation of Dr. Jackson, malignancy having been found in an operative specimen. These treatments were rendered at intervals from May 1929 through August of that year, at which time authority was granted for the veteran to return to Philadelphia for further care by Dr. Jackson. From September 17 to 19, 1929, the veteran was an out-patient at the Graduate Hospital, Temple University, Philadelphia, Pa. A report of Dr. Jackson covering this period of treatment is as follows:

"Renzie Graham was treated by the roentgen ray and radium to forestall the spread of a growth which seemed malignant in type."

From the time of this treatment by Dr. Jackson until October 6, 1931, there is nothing of record to indicate that the veteran was given medical examination or treatment by the Government. On October 6, 1931, the veteran was examined by Dr. A. E. Hussey, Veterans' Administration, Cincinnati, Ohio, who stated that the veteran's greatest complaint "is from an old X-ray burn over the throat which came on 2½ months ago and involves a large area over the front of the throat which is very red in appearance, scaly, and cracked, causing much itching." The report of this examination further states that "The condition of the throat (tumor) is satisfactory. No recurrence of tumor. Claimant is feeling very well."

From November 24, 1933, to November 28, 1933, the veteran was again a patient at the Temple University Hospital as a beneficiary of the Veterans' Administration, at which time an examination showed that "the larynx is perfectly normal except for the scars at the site from which the myxosarcoma teratoma was removed 4 years ago (May 15, 1929). There is no ulceration, no tumor, no chronic mucosal inflammation." The report further indicated, however, that the veteran was suffering from dyspnea and suggested that his heart be studied.

It appears that the veteran's general health later improved and that he was well and working every day, without taking a vacation, until the fall of 1941, at which time an enlarged gland appeared on the side of his neck which was removed by two private physicians, Drs. Sprague and Hutchinson, of Athens, Ohio. Three months later the veteran's throat became sore and Dr. Sprague referred the patient to a Dr. Hoskins, Athens, Ohio, who did a biopsy under local anesthesia, making a diagnosis of "epithelioma, grade II, malignancy." This diagnosis was accepted by another private physician, Dr. Beatty, Columbus, Ohio, whereupon the veteran placed himself under the care of Dr. Jackson. Authority for care by Dr. Jackson as a beneficiary of the Veterans' Administration was not obtained, as had been the case in each previous period of care by this physician, the veteran apparently having become alarmed by the diagnosis of Dr. Hoskins and Dr. Beatty and having decided to act upon his own initiative. In a letter which the veteran addressed to the central office of the Veterans' Administration in Washington under date of March 13, 1941, stating that he was going to Dr. Jackson for further treatment, he stated that prior to March 1929 he had been severely burned by X-ray treatment at the Dayton Military Hospital.

The diagnosis of Dr. Jackson was: "Squamous cell carcinoma, grade 3 of larynx. X-ray therapy recommended after tracheotomy." On March 24, 1941, a tracheotomy was performed and from April 8, 1941, a course of X-ray treatments was carried out at Temple University Hospital, being completed on April 24, 1941.

A report of physical examination conducted by the Veterans' Administration on November 13, 1941, indicated that the veteran's condition was progressive. It appears that the veteran continued to receive X-ray therapy as a private patient at Temple University Hospital, Philadelphia, Pa., at intervals of approximately 6 weeks, until the time of his death, which occurred on June 4, 1942, the last treatment having been rendered in April of this year.

At the time of the veteran's death he was receiving disability compensation at the rate of \$100 per month. Compensation had been paid in varying amounts, from the day following the veteran's discharge from military service, May 24, 1919.

On December 9, 1941, the veteran's claim for reimbursement in the amount of \$562.05 for unauthorized medical expenses incurred in connection with his hospitalization at the Temple University Hospital from March 14, 1941, to May 2, 1941, was disapproved on the ground that Government facilities were available for the treatment of his disability.

On February 2, 1942, the veteran's claim for insurance benefits was denied, on the ground that he did not become permanently and totally disabled for insurance purposes at any time prior to the lapse of his term insurance contract.

On February 25, 1942, the special bill now under consideration was introduced on the veteran's behalf. If further consideration is to be given the measure, it is suggested that, in view of the veteran's death, appropriate changes be made to award the proposed benefit to the veteran's estate or to his widow.

The facts in this case have been carefully considered and there is no evidence indicating that the X-ray burns which the veteran suffered were due to negligence while he was a patient at the Dayton Home or at any other time while he was undergoing treatment as a beneficiary of the Veterans' Administration or its predecessor agencies. On the contrary, skin changes are the common result in repeated irradiations for malignant conditions. It will be noted that the course of treatment in this case, both before and after the veteran was placed under the care of Dr. Jackson, was of a type used and recommended by Dr. Jackson. When it is considered that this veteran lived more than 20 years after malignancy was suspected and that for the greater portion of that time he was regularly and gainfully employed, it would seem that the treatment rendered produced remarkably favorable results.

While I regret the occurrence of disease in this case, and extend sympathy to the family for the loss they have sustained in the veteran's death, I nevertheless feel, in the light of the circumstances involved, that there is no legal or moral obligation on the part of the Government to afford relief in the manner proposed by the bill.

Steps are being taken to advise the veteran's widow of her right to claim death compensation under general laws administered by the Veterans' Administration.

For the reasons heretofore set forth, the Veterans' Administration is unable to recommend favorable action with respect to H. R. 6675, either in its present form or amended in the manner suggested.

Advice has been received from the Bureau of the Budget that there would be no objection by that office to the submission of this report to your committee.

Very truly yours,

FRANK T. HINES, *Administrator.*

STATE OF OHIO,

Athens County, ss:

Mrs. Renzie Graham, being duly sworn, says that she was the wife and is now the widow of Renzie Graham, who was a World War soldier, and who died on the 4th day of June 1942 as the result of cancer; that this affiant and said Renzie Graham were married the 30th day of June 1920, and that they were the parents of two children.

This affiant further says that not long after her husband's discharge from the Army, he was treated by the Veterans' Administration for a throat ailment, which was an acknowledged service-connected disability; that said trouble gradually became worse and that after several visits to the veterans' hospital at Dayton, Ohio, radium and X-ray treatments were carried out; that during the several months period prior to March 1929 while being given X-ray treatments at the veterans' hospital in Dayton, said Renzie Graham was very severely burned by reason of the failure of the physicians of the veterans' hospital to exercise proper care in the application of X-ray treatment; that said treatment resulted in the skin on his neck being badly blistered and burned over a large portion of the side of his neck and that said burn caused the skin to crack and become seriously inflamed from which condition it never improved but gradually became worse and worse. This affiant says that said Graham complained many times to other doctors who waited upon him and that several of these doctors told said Graham at different times that these burns were very serious and that because of the burns it was very difficult to treat him for his trouble. Affiant further says that during the time her husband was treated at the veterans' hospital all expenses of said treatment were borne by the Veterans' Administration, but that her husband secured medical assistance from several different surgeons and physicians and paid for these out of his own pocket; and that these expenses were very large and that none of them are included in the statement filed by him or her in the presentation of the claim, which they have made before the Congress of the United States.

This affiant states that during the year 1936, the blistered skin on the neck of said Graham burst, resulting in a deep ulcer which would not respond to medical treatment, and that said veteran was compelled to wear a heavy bandage on the front of his neck for several years; that the said veteran visited Dr. Charles

Sheppard, dermatologist, of Columbus, Ohio, for treatment during this time; that early in 1942, Dr. Sheppard made a written statement expressing great surprise that the veteran was still living because of the severity of the X-ray burn on the neck of said veteran.

This affiant states that after a biopsy on March 4, 1941, showed epithelioma, grade 2, said veteran went to see Dr. Beatty, in Columbus, who was recommended by several Athens physicians; that Dr. Beatty advised him emphatically that because of this burn on the side of his neck and the advanced stage of the lesion, that it would be impossible for him to treat him, and advised him to secure treatment from those who had treated him heretofore, and that it was necessary for him to proceed immediately; and that returning to Athens said veteran found Dr. Beatty's diagnosis supported by his Athens physician; and that the veteran did proceed immediately to Philadelphia, and that the surgeons at Philadelphia immediately performed a very serious operation on his throat by inserting a tube therein, which no doubt prolonged his life for several months. The affiant further states that several weeks later, when it became impossible for said veteran to swallow, a second operation was performed and a tube inserted in his stomach, by which method he was fed for about 9 weeks preceding his death.

Affiant further states that a letter to her from the physician in charge of the broncho-esophagology department, where her husband was hospitalized, states in part: "We have decided to give Mr. Graham a course of X-ray therapy, taking great care with the dosage used in order to avoid undue reaction in the tissues of his neck, which have already been subjected to almost as much irradiation as they can stand. It is very doubtful that enough can be given to produce a lasting cure."

Mrs. RENZIE GRAHAM.

Sworn to before me and signed in my presence this 30th day of March 1943.

[SEAL]

DOROTHY FRANK,

Notary Public in and for Athens County, Ohio.

My commission expires November 27, 1944.

Mar. 11, 1941. Dr. Hugh Beatty, examination.....	\$5. 00
Mar. 14, 1941. Baltimore & Ohio R. R., transportation.....	16. 05
Mar. 14, 1941. Temple University Hospital, board.....	30. 00
Mar. 17, 1941. Dr. C. R. Hoskins, biopsy and laboratory work.....	15. 00
Mar. 18 to May 2, 1941. Dr. Chamberlain, Temple Hospital.....	145. 00
X-ray examination.....	\$25. 00
24 X-ray treatments.....	120. 00
Mar. 24, 1941. Patricia Barthalomew, professional registered nurse.....	3. 00
Mar. 25, 1941. Elinor Anderson, professional registered nurse.....	6. 00
May 2, 1941. Dr. Jackson, professional services.....	130. 00
May 5, 1941. Temple University Hospital, board.....	210. 00
June 1, 1941. Baltimore & Ohio, transportation.....	16. 05
June 3, 1941. Temple Hospital, brone.....	5. 00
June 3, 1941. Dr. Jackson, laryngoscopy.....	10. 00
July 28, 1941. Baltimore & Ohio, transportation.....	16. 05
Aug. 1, 1941. H. G. Street, lodging.....	3. 00
Aug. 1, 1941. Temple Hospital, surgical supplies.....	1. 00
Sept. 28, 1941. Baltimore & Ohio R. R., transportation.....	16. 00
Oct. 17, 1941. Dr. John Blady, Temple Hospital, radium treatment.....	75. 00
Oct. 23, 1941. Dr. Chamberlain, Temple Hospital, 23 X-ray treatments.....	115. 00
Oct. 24, 1941. H. G. Street, lodging (Sept. 28 to Oct. 23).....	25. 00
Seven meal tickets at \$3.....	21. 00
Dec. 1, 1941. Baltimore & Ohio, transportation.....	16. 90
Jan. 1, 1942. Baltimore & Ohio, transportation.....	16. 80
Mar. 14, 1942. Dr. C. R. Hoskins, professional services.....	22. 75
May 1941 to Mar. 1942. The Athens Pharmacy, medical supplies.....	23. 50
	<hr/> 943. 10

I hereby certify that the above is a true statement for services rendered by all the above named parties, both as to date and the amount of account, and that these bills have been paid by me from personal funds and reimbursement has not been received.

RENZIE GRAHAM.

STATE OF OHIO,
Athens County, ss:

Sworn to before me and signed in my presence, this 16th day of March 1942.

[SEAL]

OLIVE DORSEY,
Notary Public, Athens County.

My commission expires November 13, 1944.

HOUSE OF REPRESENTATIVES,
Washington, D. C., February 23, 1943.

Re H. R. 550, Renzie Graham.

Hon. DAN R. McGEHEE,

Chairman, Committee on Claims, House of Representatives.

DEAR MR. McGEHEE: With reference to H. R. 550, a bill for the relief of Renzie Graham, I am glad to furnish you with information showing the medical and transportation expenses in this case, also the full expenses of the soldier.

The following is a list: Each item is supported by statements and receipts which I will explain.

No. 1. Statement prepared by Mr. Graham and sworn to by himself before he died.....	\$943. 10
No. 2. Receipt from Baltimore & Ohio R. R. for transportation.....	18. 48
No. 3. Expenses of Mrs. Graham in going to Philadelphia to bring Mr. Graham home from the hospital, transportation, Pullman and other expenses for 2.....	45. 00
No. 4. Receipt from Temple University Hospital.....	1. 75
No. 5. Statement from Dr. W. Edward Chamberlain.....	25. 00
No. 6. Statement from Dr. James Norman Coombs.....	75. 00
No. 7. Statement from Temple University Hospital.....	97. 65
No. 8. Statement from Temple University Hospital.....	34. 50
No. 9. Statement from undertaker for burial expenses.....	593. 55
Total.....	1, 834. 03

Very truly yours,

THOMAS A. JENKINS.

No. 2

THE BALTIMORE & OHIO RAILROAD Co.,
March 18, 1942.

Received from Renzie Graham, eighteen and 48/100 dollars, account of round-trip coach ticket, Athens, Ohio, to Philadelphia, Pa. \$18.48.

F. C. SEGALÉ, Agent.
Per E. F. H.

No. 4

TEMPLE UNIVERSITY HOSPITAL,
Philadelphia, April 11, 1942.

No. 72901

Received from Mr. Graham for account of Mr. Renzie Graham, one dollar and seventy-five cents, in settlement of account annexed.

\$1.75

In-patients: Miscellaneous supplies..... \$1. 75

Total cash..... 1. 75

Paid by cash.

No. 5

DR. W. EDWARD CHAMBERLAIN,
DEPARTMENT OF RADIOLOGY,
Temple University Hospital, June 16, 1942.

Name: Renzie Graham.
Paid: \$25. Check.

M. A. DRINKWATER.

MAY 26, 1942.

Mr. RENZIE GRAHAM

To DR. W. EDWARD CHAMBERLAIN, Dr.

Temple University Hospital, 3401 North Broad Street, Philadelphia

For professional services, Mar. 23 and Apr. 17, 1942; X-ray examination of
neck (2); swallowing function; and consultation with Drs. Jackson and
Blady----- \$25

Paid by check, June 12, 1942.

No. 6

PHILADELPHIA, April 6, 1942.

Mr. RENZIE GRAHAM,
74 Main Street, Athens, Ohio.

To DR. JAMES NORMAN COOMBS, Dr.

For professional services: Operation at Temple University Hospital----- \$75
Received payment. Pd.

No. 7

In-patients:

Board: Full pay private: ----- days, at \$4.50-----	\$67. 50
Nurse's board-----	4. 50
Operating room-----	20. 00
Laboratory-----	2. 50
Drugs-----	2. 90
Miscellaneous: Medicine-----	. 25

Total cash-----	97. 65
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Dr. Jackson.

TEMPLE UNIVERSITY HOSPITAL,
Philadelphia, April 11, 1942.

No. 72895

Received from Mr. Renzie Graham, for account of self, ninety-seven/65 dollars,
in settlement of account annexed.

\$97.65.

Z.

Paid by check.

No. 8

In-patients:

Board: Full pay private, 7 days at \$4.50-----	\$31. 50
Laboratory-----	2. 00
Drugs-----	1. 00

Total cash-----	34. 50
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Dr. Jackson.

TEMPLE UNIVERSITY HOSPITAL,
Philadelphia, March 20, 1942.

No. 71309

Received from Mr. Renzie Graham for account of self, \$34.50, in settlement of
account annexed.

\$34.50.

Z.

No. 9

NELSONVILLE, OHIO, *October 12, 1942.*

Mrs. MONA GRAHAM,
74 May Avenue, Athens, Ohio.

In account with C. L. STOUT FUNERAL HOME, 36 Fayette Street

Services Renzie Dow Graham who died June 4, 1942:

Casket, hearse, embalming, and services-----	\$500. 00
Vault-----	85. 00
Tax-----	8. 55

593. 55

JUNE 15, 1942.

Received from Mrs. Mona Graham, \$593.55, payment in full for above account
in full.

C. L. STOUT FUNERAL HOME,
By M. B. STOUT.

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